

(4) The recipient has issued a final determination which disallows the misexpenditure, the recipient's appeal process has been exhausted, and a debt has been established; and

(5) The recipient requests such a waiver and provides documentation to demonstrate that it has substantially complied with the requirements of section 184(d)(2) of the Act, and this section.

(d) The recipient will not be released from liability for misspent funds under the determination required by section 184(d) of the Act unless the Grant Officer determines that further collection action, either by the recipient or subrecipients, would be inappropriate or would prove futile.

§ 667.730 What is the procedure to handle a recipient's request for advance approval of contemplated corrective actions?

(a) The recipient may request advance approval from the Grant Officer for contemplated corrective actions, including debt collection actions, which the recipient plans to initiate or to forego. The recipient's request must include a description and an assessment of all actions taken by the subrecipients to collect the misspent funds.

(b) Based on the recipient's request, the Grant Officer may determine that the recipient may forego certain collection actions against a subrecipient when:

(1) The subrecipient meets the criteria set forth in section 184(d)(2) of the Act;

(2) The misexpenditure of funds:

(i) Was not made by that subrecipient but by an entity that received WIA funds from that subrecipient;

(ii) Was not a violation of section 184(d)(1) of the Act, and did not constitute fraud; or

(iii) If fraud did exist,

(A) It was perpetrated against the subrecipient; and

(B) The subrecipient discovered, investigated, reported, and cooperated in any prosecution of the perpetrator of the fraud; and

(C) After aggressive debt collection action, it has been documented that further attempts at debt collection

from the perpetrator of the fraud would be inappropriate or futile;

(3) A final determination which disallows the misexpenditure and establishes a debt has been issued at the appropriate level;

(4) Final action within the recipient's appeal system has been completed; and

(5) Further debt collection action by that subrecipient or the recipient would be either inappropriate or futile.

§ 667.740 What procedure must be used for administering the offset/deduction provisions at section 184(c) of the Act?

(a)(1) For recipient level misexpenditures, we may determine that a debt, or a portion thereof, may be offset against amounts that are allotted to the recipient. Recipients must submit a written request for an offset to the Grant Officer. Generally, we will apply the offset against amounts that are available at the recipient level for administrative costs.

(2) The Grant Officer may approve an offset request, under paragraph (a)(1) of this section, if the misexpenditures were not due to willful disregard of the requirements of the Act and regulations, gross negligence, failure to observe accepted standards of administration or a pattern of misexpenditure.

(b) For subrecipient level misexpenditures that were not due to willful disregard of the requirements of the Act and regulations, gross negligence, failure to observe accepted standards of administration or a pattern of misexpenditure, if we have required the State to repay such amount the State may deduct an amount equal to the misexpenditure from its subsequent year's allocations to the local area from funds available for the administrative costs of the local programs involved.

(c) If offset is granted, the debt will not be fully satisfied until the Grant Officer reduces amounts allotted to the State by the amount of the misexpenditure.

(d) A State may not make a deduction under paragraph (b) of this section until the State has taken appropriate corrective action to ensure full compliance within the local area with regard